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REMARKS

Applicants would like to thank Examiner Philogene for his indication of allowable subject matter in claims 25-27, 35-36, 42-44 and 56-57. These claims have been placed in independent form, without any narrowing amendments, and should be allowed. Specifically, new independent claims 58, 66, 74, 82, 87, 92, 100, 108, and 116 correspond to original claims 25, 26, 27, 35, 36, 42, 43, 44 and 56, respectively. New claim 124 corresponds to original claim 57. Further, dependent claims have been added with respect to each new independent claim, which dependent claims correspond to original claims 7, 9, 10, 38-39, 41, 46-47 and 50. New dependent claims 85, 86, 90 and 91 are fully supported by the disclosure, including by the discussion at paragraphs 0062-0065 of this application as published. No new issues related to patentability are believed to have been presented with the new claims, and no new matter has been added.

In light of the new claims, original claims 25-27, 35-36, 42-44 and 56-57 and others have been cancelled, without prejudice to their reconsideration in this or a continuing application. The claims presently in this application are to be given the full scope to which their language entitles them, and it is believed that the pending claims cover the embodiments disclosed in the application.

Initially, it is believed that the finality of the pending action is premature because the grounds for rejection of some of the claims has changed. For example, in the previous Office Action, claims 29, 48 and 49 were rejected as allegedly obvious over the Bonutti reference (US 6,203,565), with the suggestion that their added features were "old and well known in the art." The current Office Action, however, rejects claims 29, 48 and 49 (which were not amended in response to the previous Office Action) under section 102 as allegedly anticipated by the Bonutti

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reference. Thus, since the new ground for rejection was not necessitated by amendments to claims 29, 48 and 49 nor by new references submitted by Applicants, the finality of this action should be withdrawn.

As to the substance of the Office Action, it again rejected claims 7, 9-10, 13-14, 24, 28-29, 34, 37-41, and 46-50, and initially rejected claims 51-55, all as allegedly anticipated by Bonutti. Although it is believed that the Bonutti reference does not show all elements of any of those claims for at least the reasons given previously and perhaps others, in order to move this case more quickly to allowance claims 7, 9-10, 13-14, 24, 28-29, 34, 40-41, 46-47, 50, and 53-55 are being cancelled without prejudice to reconsideration in this or a continuing application, and claims 48 and 49 have been amended to depend from new independent claim 58. No admission is being explicitly or implicitly made that any of the claims cancelled from this application may be unpatentable on any ground.

Reconsideration of claims 37-39 and 51-52 is respectfully requested in light of the amendments and arguments herein. Claim 37 has been placed in independent form, and has not been narrowed in any way. Referring to claims 37 and 51 together, respectfully the Office Action is incorrect that Bonutti shows or discloses any indication of solvents or solvent bonding. The only use of the term "solvent" in Bonutti is at column 3, line 65, as one possible ingredient in its definition of "plastic material." There simply is no indication at all in Bonutti of a separate solvent being used to deform or bond two pieces together. Bonutti discloses only the use of heat to soften and make flowable (e.g. column 3, lines 43-44; column 4, lines 7-8, 23, 35-36; column 5, lines 25, 28-29, 40; column 6, lines 25-28, 35-36, 43, 59-62) a portion of an implant piece. Respectfully, Bonutti's concentration on heat application, including application of a laser, and its lack of any discussion of application of a solvent mean that there is no basis for concluding that

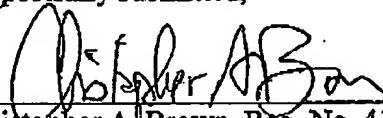
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one of ordinary skill in the art would perceive the solvent-related aspects of claims 37 and 51 in the Bonutti reference. These claims and their dependent claims should be allowed as they are for at least that reason.

Applicants do not intend to limit the scope of pending or later-offered claims via the amendments herein. The claims are intended to have their full scope, including permissible equivalents and inclusion of all species, to which their language entitles them. Applicant respectfully submits the amendments and remarks in this paper have been made in an effort to expedite prosecution of this case, and do not necessarily comprise all possible arguments or positions in favor of patentability. In particular, Applicant does not concede or admit that the Bonutti reference adequately discloses other features of the claims of the present application.

In conclusion, reconsideration and allowance of this application is requested. Specifically, claims 37-39, 48-49, 51-52, and 58-124 are in condition for allowance. If there are any outstanding issues, the examiner is invited to contact the undersigned attorney by telephone for their resolution.

Respectfully submitted,



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